

## REMARKS

### Summary of Office Action

Claims 152-213 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Vermeer, U.S. Patent No. 5,880,076 (hereafter "VERMEER").

### Response to Office Action

Reconsideration and withdrawal of the rejection of record is respectfully requested, in view of the following remarks.

Claims 152-213, i.e., all claims of record, are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over VERMEER. The rejection alleges that VERMEER teaches personal products which are pearlescent and comprise surfactants, viscosity control agents, fatty acids, fatty alcohols, siloxane elastomers, amphiphilic polymers, pigments and dyes (colorants). In this regard, the rejection relies particularly on the disclosure in col. 17, lines 49-50 column 34, lines 18-31 and 51-56 and col. 36, lines 9-20 of VERMEER. The rejection concedes that VERMEER does not teach the percent by weight of each component and also does not teach the ratio of each component but essentially alleges that determining these parameters is merely a matter of routine optimization.

Applicants respectfully traverse this rejection. In particular, while the rejection points to certain passages of VERMEER where sodium hydroxide (as catalyst for the reaction by which the glycarbamate/glycaurea compounds disclosed therein can be prepared), fatty acids, colorants and polyols are mentioned, Applicants were unable to find a disclosure of, for example, the polymers which are recited in, e.g., present claims 155, 156 and 158 and the pigments which are recited in,

e.g., present claim 161. (In fact, Applicants could not find any mentioning of pigments in the rather voluminous disclosure of VERMEER.) Applicants also were unable to find in VERMEER any disclosure of the component recited in, e.g., present claim 177. Neither has the Examiner explained why one of ordinary skill in the art would have had an apparent reason to include these missing components in any personal product composition according to the teaching of VERMEER and, additionally, employ them in combination with the remaining components recited in claim 152.

Applicants further submit that VERMEER discloses hundreds, if not thousands, of substances which may optionally be present in the personal product compositions disclosed therein, resulting in thousands, if not millions, of possible combinations of components. VERMEER does not offer any guidance whatsoever as to which compounds and classes of compounds, respectively can advantageously be combined, let alone in which concentrations and ratios. In fact, VERMEER does not appear to disclose any (preferred) concentration ranges for any of these optional components.

Specifically, in the passage from col. 27, line 65 to col. 39, line 57, VERMEER discloses the following classes of substances (and specific examples thereof) which may optionally be present in the personal product compositions taught therein: antidandruff agents, hair conditioning agents, suspending agents, thickening agents, styling agents, organic viscosity control agents, emulsifiers/emollients (refatting agents), conditioning emollient oils, conditioning extracts, humectants, solubilizing and clarifying agents, sunscreens and UV absorbers, opacifiers and pearlescent agents, vitamins, amino acids, proteins, curl enhancing agents, hair coloring agents, chelating and sequestering agents, hydrotropes, anti-lice agents, hair straighteners, preservatives or antimicrobial agents, antioxidants, pH-control agents, buffering agents, colorants, lanolin

derivatives, long chain esters, saturated and unsaturated fatty alcohols, phospholipids, sterols, ceramides, non-volatile silicone fluids, polyols, fatty acids, hygroscopic alkanolamides, cationic and nonionic polymers, hydroxyl acids, antiperspirant/deodorant agents, hardening agents, healing agents, astringents, non-astringent anti-plaque and/or anti-calculus agents, antibacterial agents, essential flavorant oils, sweeteners, fluorides, desensitizing agents, antibiotics and antienzymes.

VERMEER moreover points out that “[m]any additional agents are useful in the present invention”, which agents are described in the publications cited in the paragraph bridging columns 50 and 51 of VERMEER.

In view of the foregoing facts, Applicants fail to see that VERMEER teaches or suggests to one of ordinary skill in the art to provide a cosmetic or dermatological composition that comprises a combination of the specific components recited in the present independent claims, let alone in the individual concentration ranges also recited in these claims. It also is not seen that one of ordinary skill in the art would have had any reason to try to optimize the ratio of any two of these (theoretically present) components. In this regard, the Examiner is reminded that a particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges might be characterized as routine experimentation. See MPEP 2144.05 II.B.

Applicants additionally point out that the cosmetic or dermatological compositions recited in the present independent claims are pearlescent. It is acknowledged that VERMEER teaches that the personal product compositions disclosed therein may comprise opacifiers and pearlescent agents as optional components thereof. However, in column 31, lines 59-61 VERMEER states that preferred representatives of this class of components “are the nonheteroatom containing alkyl

aldonamides/aldobionamides and the ethylene glycol esters such as ethylene glycol monostearate and distearate". In contrast, all of the present independent claims recite that the claimed cosmetic or dermatological compositions are "substantially free of mono- and difatty acid esters of glycerol and glycol". Accordingly, VERMEER even teaches away from the present invention.

It is submitted that for at least all of the foregoing reasons, VERMEER fails to render obvious the subject matter of any of claims 152-213, wherefore the rejection of these claims under 35 U.S.C. § 103(a) over VERMEER is without merit and withdrawal thereof is respectfully requested.

### **CONCLUSION**

In view of the foregoing, it is believed that all claims in the present application are in condition for allowance, which action is again respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,  
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